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EXAMINER

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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Paper No. 19

Application Number: 09/406,353
Filing Date: September 28, 1999
Appellant(s): GIAMMARESSI, TOM

MAILED
MAR 11 2004
Technology Center 2600

Eamon J. Wall (Reg. No. 39,414)
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed December 29, 2003.

(1) *Real Party in Interest*

A statement identifying the real party in interest is contained in the brief.

(2) *Related Appeals and Interferences*

A statement identifying the related appeals and interferences, which will directly affect or be directly affected by or have a bearing on the decision in the pending appeal is contained in the brief.

(3) *Status of Claims*

The statement of the status of the claims contained in the brief is correct.

(4) *Status of Amendments After Final*

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) *Summary of Invention*

The summary of invention contained in the brief is inaccurate. Page 10 of the Appeal Brief, lines 13 states that "claim 1 positively recites". However claim 1, has been canceled by the appellant's (paper no 11, dated May 12, 2003).

(6) *Issues*

The appellant's statement of the issues in the brief is correct.

(7) *Grouping of Claims*

Appellant's brief includes a statement that all claims grouped together and stand or fall together and provides reasons as set forth in 37 CFR 1.192(c)(7) and (c)(8).

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(8) Claims Appealed

The copy of the appealed claims contained in the Appendix to the brief is correct.

(9) Prior Art of Record

6,292,834	RAVI et al	3-1997
5,822,530	BROWN	12-1995
5,115,309	HANG	9-1990

(10) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claims 17 – 19 and 30 – 31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ravi et al. (US 6,292,834).

Claims 20 – 24, 26 – 28, 32 – 38, 40 – 42 and 44 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ravi et al. (US 6,292,834) in view of Brown (US 5,822,530).

Claims 25, 29, 39 and 43 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ravi et al. in view of Brown (US 5,822,530) further in view of Hang (US 5,115,309).

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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2. Claims 17 – 19 and 30 – 31, are rejected under 35 U.S.C. 103(a) as being unpatentable over Ravi et al. (US 6,292,834).

Regarding claims 17 and 30, Ravi '834 discloses the claimed "video on demand Distribution System" (i.e. fig. 2), comprising "provider equipment for providing VOD" (i.e. fig. 2, server 220), and the claimed "subscriber equipment requesting the VOD content via a back channel" (i.e. fig. 2, client 240) and forward and backward channel (reads on fig. 2, bi-directional or double sided arrows), and step of "determining whether the VOD distribution system has sufficient bandwidth available to provide VOD content to subscriber and providing in the event of appropriate bandwidth availability, the requested VOD content to subscriber using content encoded in a manner adapted to utilize the appropriate bandwidth , and providing VOD content to subscriber in the event of minimum bandwidth availability using content encoded in a manner adapted to utilize minimum bandwidth" reads on (i.e. fig. 4, and figs. 5a – 5e, abstract, lines 5 – 12, and col. 6, lines 64 - 67) where discloses dynamically adjust the transmission rate of the VOD to optimize usage of the bandwidth (utilize the appropriate bandwidth), and interface circuit (fig. 1, 112) is used to send and receive information and is coupled to the information server. Ravi '834 fails to explicitly teach the claimed "minimum bandwidth availability". However, Ravi '834 teaches efficient VOD transmission and dynamically adjust/matched the transmission rate of the VOD to optimize usage of the bandwidth (utilize the appropriate bandwidth) as discussed above. It would have been obvious to one having ordinary skill in the art to realize that the bandwidth is

limited and at some point would have the minimum bandwidth and at some point the maximum bandwidth threshold.

Regarding claims 18 – 19, the claim limitation “waiting for bandwidth availability and repeating the steps of providing VOD content” reads on (figs. 4, and 5a – 5e), determination of sufficient bandwidth and adjustment, for requested information, therefore the step of repeating (iteration) would be necessary.

Regarding claim 31, the limitations claimed are substantially similar to claims 17, 18 and 30; therefore the grounds for rejecting claims 17, 18 and 30 also apply here.

4. Claims 20 – 24, 26 – 28, 32 – 38, 40 – 42 and 44 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ravi et al. (US 6,292,834) in view of Brown (US 5,822,530).

Regarding claim 20, Ravi '834 teaches video on demand distribution System, and provider equipment for providing VOD (i.e. fig. 2, server 220), and subscriber equipment (i.e. fig. 2, client 240), and adjust bandwidth based on the VOD content (fig. 4). Ravi '834 fails to explicitly teach the claimed “denying step”. However, Brown '530 (col. 7, lines 17+) teaches denying the request presentation.

In view of the above, it would have been obvious to one having ordinary skill in the art to modify the system of Ravi '834, as taught by Brown '530 to improve reliable and efficient transmission techniques (col. 2, lines 64 – 67).

Regarding claims 21, 26 – 27, 32 and 40 - 41, combination of Ravi '834 and Brown '530 teaches bandwidth determination made with respect to at least one of video server bandwidth, video switch bandwidth, transport processor and digital video

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modulator bandwidth would have been obvious (i.e. col. 7, lines 8+ of Brown '530), and information type comprises one of video, audio (fig. 3, video/audio of Ravi '834), and component loading levels are determined with respect to the type of information requested, reads on col. 7, lines 8+ of Brown '530, since the reference teaches variable bandwidth for transmission base on the type of information requested.

Regarding claims 22 - 23, and 36 - 37, combination of Ravi '834 and Brown '530 teaches the variable bandwidth and adjustment to support navigation (fig. 4, of Ravi), and storing information reads on (fig. 1 of Ravi).

Regarding claims 24 and 38, combination of Ravi '834 and Brown '530 teaches the BW-threshold and adjusting to avoid quality degrading (fig. 4, and fig. 5e of Ravi).

Regarding claims 28 and 42, combination of Ravi '834 and Brown '530 teaches video formats having differing quality levels (i.e. col. 1, lines 20+ of Brown '530).

Regarding claim 33, combination of Ravi '834 and Brown '530 teaches transport processor for packetizing information (fig. 2, col. 5, lines 43+ of Ravi).

Regarding claim 35, combination of Ravi '834 and Brown '530 teaches digital video modulator (fig. 1, 116, col. 4, lines 43+ of Ravi).

Regarding claim 44, combination of Ravi '834 and Brown '530 teaches communication system and storage, that includes information distribution and transmission to client base on the requested information, and providing variable bandwidth (figs. 1, 2, and 4, and abstract of Ravi), therefore it would have been obvious that the variable bandwidth depends on different encoded bit rate that depends on subscriber request.

5. Claims 25, 29, 39 and 43 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ravi et al. in view of Brown (US 5,822,530) further in view of Hang (US 5,115,309).

Regarding claims 25, 29, 39 and 43, combination of Ravi '834 and Brown '530 teaches BW-threshold and adjusting based on client request to avoid quality degrading (fig. 4, and fig. 5e of Ravi). Combination of Ravi '834 and Brown '530 fails to teach control bandwidth utilization levels.

However, the above claimed limitations are well-known in the art as evidenced by Hang '309, in particular (i.e. fig. 1, col. 1, lines 8+) teaches channel allocation to control bandwidth based upon expected component.

In view of the above, it would have been obvious to one having ordinary skill in the art at the time of the invention was made to modify the combination system of Ravi '834 and Brown '530, as taught by Hang '309 for improving the system.

(11) Response to Arguments

Appellant's Arguments

In regarding claim 17, Appellant asserts (Paper no. 18, dated December 29, 2003, page 15, lines 26 – 32) that Ravi fails to teach or suggest “providing in the event of appropriate bandwidth availability, said requested VOD content to said subscriber using stored content encoded in a manner adapted to utilize said appropriate bandwidth, and providing in the event of minimum bandwidth availability, said requested

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VOD content to said subscriber using stored content encoded in a manner adapted to utilize minimum bandwidth."

Examiner respectfully disagrees. Ravi reference as a whole teaches efficient transmission of multimedia (VOD) stream from server to the client, by **dynamically** adjust/matched (optimize/utilize) the transmission rate to the available bandwidth to provide requested VOD content from the server to the client subscriber (abstract, col. 3, lines 1 – 14), and the transmission rate is selected from among a **predetermined (pre-stored) discrete bandwidth** (abstract, col. 3, lines 26 – 27). Ravi (fig. 4) also teaches three bandwidth outputs of (430, 440 and 450), which can be consider as minimum bandwidth (output of 430) and intermediate bandwidth (output of 440) and maximum bandwidth (output of 450), also (col. 3, lines 35 – 37) teaches the "**lower of the two (BW) capacities**" which in fact is the minimum bandwidth. Appellant actually argues of "having data storage unit depicted as storing two set of programs, one for appropriate bandwidth and one for minimum bandwidth availability to providing the requested VOD content to the client subscriber." In view of the above, Ravi reference as a whole teaches the data storage unit of the service provider to client (i.e. figs. 1 and 2, server and client, col. 5, lines 31 – 61) and also teaches transmission rate is selected from among a **predetermined (pre-stored) discrete bandwidth** programs (abstract, col. 3, lines 26 – 27) which reads on stored content encoded to provide the requested VOD content to the client subscriber in the event of appropriate BW and minimum BW by dynamically adjust/matched (optimize/utilize) the transmission rate.

Appellant asserts in regarding claim 17 (Paper no. 18, dated December 29, 2003, page 17, lines 7 – 10), that Ravi reference is completely silent with regards to using stored content encoded in a manner adapted to utilize the appropriate bandwidth. The same argument as previously discussed.

Examiner respectfully disagrees. Ravi reference teaches **dynamically optimize/utilize the transmission rate using a predetermined (pre-stored) discrete bandwidth programs** (abstract, col. 3, lines 26 – 27) from service provider to provide the requested VOD content to the client subscriber in the event of appropriate BW and/or minimum BW.

Appellant asserts (Paper no. 18, dated December 29, 2003, page 18, lines 13 – 14), that Ravi reference fails to teach or suggest the appellant's invention as a whole.

Examiner respectfully disagrees. With respect to the above discussion, Ravi reference as a whole teaches the claimed invention as recited in independent claims 17 and 30.

Appellant repeated arguments in regarding claim 30 (Paper no. 18, dated December 29, 2003, page 19, lines 17 - 23), that Ravi reference fails to teach or suggest "providing, in the event of appropriate bandwidth availability, the requested VOD content to the subscriber using stored content encoded in a manner adapted to utilize the appropriate bandwidth, and providing in the event of minimum bandwidth availability, said requested VOD content to said subscriber using stored content encoded in a manner adapted to utilize minimum bandwidth."

Examiner respectfully disagrees. Ravi reference as a whole teaches efficient transmission of multimedia (VOD) stream from server to the client, by **dynamically** adjust/matched (optimize/utilize) the transmission rate to the available bandwidth to provide requested VOD content from the server to the client subscriber (abstract, col. 3, lines 1 – 14), and the transmission rate is selected from among a **predetermined (pre-stored) discrete bandwidth** (abstract, col. 3, lines 26 – 27). Ravi (fig. 4) also teaches three bandwidth outputs of (430, 440 and 450), which can be consider as minimum bandwidth (output of 430) and intermediate bandwidth (output of 440) and maximum bandwidth (output of 450), also (col. 3, lines 35 – 37) teaches the “**lower of the two (BW) capacities**” which in fact is the minimum bandwidth. Appellant actually argues of “having data storage unit depicted as storing two set of programs, one for appropriate bandwidth and one for minimum bandwidth availability to providing the requested VOD content to the client subscriber.” In view of the above, Ravi reference as a whole teaches the data storage unit of the service provider to client (i.e. figs. 1 and 2, server and client, col. 5, lines 31 – 61) and also teaches transmission rate is selected from among a **predetermined (pre-stored) discrete bandwidth** programs (abstract, col. 3, lines 26 – 27) which reads on stored content encoded to provide the requested VOD content to the client subscriber in the event of appropriate BW and minimum BW.

Appellant asserts in regarding claim 30 (Paper no. 18, dated December 29, 2003, page 21, lines 1 - 3), that Ravi reference is completely silent with regard to “using stored content encoded in a manner adapted to utilize the appropriate bandwidth, or in the

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event of minimum bandwidth availability, using stored content encoded in a manner adapted to utilize minimum bandwidth." The same argument as previously discussed.

Examiner respectfully disagrees. Ravi reference teaches **dynamically optimize/utilize the transmission rate using a predetermined (pre-stored) discrete bandwidth programs** (abstract, lines 18 – 21, and 25 – 26, and col. 3, lines 26 – 27) from service provider to provide the requested VOD content to the client subscriber in the event of appropriate BW and/or minimum BW.

Appellant asserts (Paper no. 18, dated December 29, 2003, page 22, lines 6 - 7), that Ravi reference fails to teach or suggest the appellant's invention as a whole.

Examiner respectfully disagrees. With respect to the above discussion, Ravi reference as a whole teaches the claimed invention as recited in independent claims 17 and 30.

Appellant repeated arguments in regarding dependent claims 18, 19 and 31 (Paper no. 18, dated December 29, 2003, page 22, lines 18 - 24), that Ravi reference fails to teach or suggest "providing said requested VOD content using stored content encoded in a manner adapted to utilize an appropriate bandwidth in the case of appropriate bandwidth availability, and for providing said requested VOD content using stored content encoded in a manner adapted to utilize a minimal bandwidth in the case of at least minimal bandwidth." Have been already addressed above with respect to claims 17 and 30.

Appellant asserts in regarding dependent claims 18 – 19 and 31 (Paper no. 18, dated December 29, 2003, page 23, lines 20 – 21, and 26 – 27, and page 24, lines 1 -

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2), that Ravi fails to teach "waiting in the event of less than minimum bandwidth availability and repeating said first and second steps of providing said requested information."

Examiner respectfully disagrees. Ravi (fig. 12, col. 11, lines 55 – 60) teaches the repeating process (first and second steps) and the waiting period to repeats the process till providing the requested information to the user is necessary by the process.

Appellant asserts in regarding dependent claims 20 and 32 (Paper no. 18, dated December 29, 2003, page 25, lines 3 – 1 from the bottom of the page), that Ravi reference is silent with respect to "providing in the event of appropriate bandwidth availability the requested VOD content to the subscriber using stored content encoded in a manner adapted to utilize the appropriate bandwidth."

Examiner respectfully disagrees. As previously discussed, the present invention using stored content encoded to utilize the transmission bandwidth for the purpose of providing the requested VOD to the user. In view of the above, Ravi reference teaches efficient transmission of requested VOD (multimedia) to the user by selecting among a pre-stored/predetermined bandwidth and also dynamically adjust/matched the transmission rate to available bandwidth (abstract, figs. 2 and 4) for the same purpose.

Appellant asserts in regarding dependent claims 20 and 32 (Paper no. 18, dated December 29, 2003, page 26, lines 11 - 16), that Brown reference fails to teach or suggest "providing, in the event of appropriate bandwidth availability, the requested VOD content to the subscriber using stored content encoded in a manner adapted to utilize the appropriate bandwidth, and providing in the event of minimum bandwidth

availability, said requested VOD content to said subscriber using stored content encoded in a manner adapted to utilize minimum bandwidth."

With respect to Appellant's arguments, the above argument is irrelevant. Since examiner relied on Ravi reference for *"providing, in the event of appropriate bandwidth availability, the requested VOD content to the subscriber using stored content encoded in a manner adapted to utilize the appropriate bandwidth, and providing in the event of minimum bandwidth availability, said requested VOD content to said subscriber using stored content encoded in a manner adapted to utilize minimum bandwidth."* As discussed previously not Brown.

Appellant asserts in regarding dependent claims 20 and 32 (Paper no. 18, dated December 29, 2003, page 27, lines 17 - 22), since the combination of Ravi and Brown fails to teach or suggest "providing, in the event of appropriate bandwidth availability, the requested VOD content to the subscriber using stored content encoded in a manner adapted to utilize the appropriate bandwidth, and providing in the event of minimum bandwidth availability, said requested VOD content to said subscriber using stored content encoded in a manner adapted to utilize minimum bandwidth."

Examiner respectfully disagrees. However the above argument is irrelevant. Since examiner relied on Ravi reference for the above subject matter not Brown (please see the above Office Action).

Appellant asserts in regarding dependent claims 20 and 32 (Paper no. 18, dated December 29, 2003, page 27, lines 7 – 5 from the bottom of the page), that combination of Ravi and Brown fails to teach or suggest the feature "denying, after said

predetermined number of iterations, access to said requested VOD content to subscriber”.

With respect to Appellant’s argument, the claimed invention actually “denies requested VOD content to the user if the resource does not have sufficient bandwidth.” In view of the above, the supporting reference Brown is directed towards processing of requested VOD of interactive applications, wherein teaches the step of “denying the requested VOD to the user, if the system’s resource would be constrained by the transmission of the VOD” (abstract, lines 8 – 13), and furthermore teaches the step of determination “of whether the resource have sufficient bandwidth (BW) to support the transmission of the requested VOD, and If not either deny the transmission of the requested VOD to the user or direct the user to view NVOD (near video on demand) (col. 3, lines 39 – 40).

Appellant asserts in regarding dependent claims 20 and 32 (Paper no. 18, dated December 29, 2003, page 27, lines 4 – 5 from the bottom of the page), that Ravi reference is “completely silent with respect to denying VOD content”.

With respect to Appellant’s arguments, the above argument is irrelevant. Since examiner relied on Brown reference for the above subject matter, not Ravi reference.

Appellant asserts in regarding dependent claims 20 and 32 (Paper no. 18, dated December 29, 2003, page 28, lines 10 - 13), that combination of Ravi and Brown fails to teach or suggest the feature “denying, after said predetermined number of iterations, access to said requested VOD content to said subscriber.” The combination references fails to teach or suggest the Appellant’s invention as a whole.

Examiner respectfully disagrees. With respect to the above discussion and explanation the combination references as a whole teaches the above subject matter.

Appellant asserts in regarding dependent claims 21 and 33 (Paper no. 18, dated December 29, 2003, page 29, lines 9 - 15), that nowhere in the Ravi reference is there any teaching or suggestion of "providing, in the event of appropriate bandwidth availability, the requested VOD content to the subscriber using stored content encoded in a manner adapted to utilize the appropriate bandwidth, and providing in the event of minimum bandwidth availability, said requested VOD content to said subscriber using stored content encoded in a manner adapted to utilize minimum bandwidth."

Examiner respectfully disagrees. As previously discussed, the present invention using stored content encoded to utilize the transmission bandwidth for the purpose of providing the requested VOD to the user. In view of the above, Ravi reference teaches efficient transmission of requested VOD (multimedia) to the user by selecting among a pre-stored/predetermined bandwidth and also dynamically adjust/matched the transmission rate to available bandwidth (abstract, figs. 2 and 4) for the same purpose.

Appellant asserts in regarding dependent claims 21 and 33 (Paper no. 18, dated December 29, 2003, page 29, lines 10 – 5 from the bottom of the page), that Brown reference fails to teach or suggest "providing, in the event of appropriate bandwidth availability, the requested VOD content to the subscriber using stored content encoded in a manner adapted to utilize the appropriate bandwidth, and providing in the event of minimum bandwidth availability, said requested VOD content to said subscriber using stored content encoded in a manner adapted to utilize minimum bandwidth."

With respect to Appellant's arguments, the above argument is irrelevant. Since examiner relied on Ravi reference for *"providing, in the event of appropriate bandwidth availability, the requested VOD content to the subscriber using stored content encoded in a manner adapted to utilize the appropriate bandwidth, and providing in the event of minimum bandwidth availability, said requested VOD content to said subscriber using stored content encoded in a manner adapted to utilize minimum bandwidth."* As discussed previously not Brown.

Appellant asserts in regarding claims 21 and 33 (Paper no. 18, dated December 29, 2003, pages 30 – 31, lines 4 from the bottom of the page – lines 3 of the page 31), that combination fails to teach or suggest *"using stored content encoded in a manner adapted to utilize the appropriate bandwidth, or in the event of minimum bandwidth availability, using stored content encoded in a manner adapted to utilize minimum bandwidth."* The same argument as previously discussed.

Examiner respectfully disagrees. Ravi reference teaches **dynamically optimize/utilize the transmission rate using a predetermined (pre-stored) discrete bandwidth** programs (abstract, lines 18 – 21, and 25 – 26, and col. 3, lines 26 – 27) from service provider to provide the requested VOD content to the client subscriber in the event of appropriate BW and/or minimum BW.

Appellant repeated arguments in regarding claims 22 and 36 (Paper no. 18, dated, December 29, 2003, page 31, lines 3 from the bottom of the page – page 32, lines 4), that combination fails to teach or suggest *"providing, in the event of appropriate bandwidth availability, the requested VOD content to the subscriber using stored*

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content encoded in a manner adapted to utilize the appropriate bandwidth, and providing in the event of minimum bandwidth availability, said requested VOD content to said subscriber using stored content encoded in a manner adapted to utilize minimum bandwidth."

Examiner respectfully disagrees. However the above argument is irrelevant. Since examiner relied on Ravi reference for the above subject matter as previously addressed not Brown (please see the above Office Action).

Appellant asserts in regarding claims 22 and 36 (Paper no. 18, dated December 29, 2003, page 32, lines 11) that combination of Ravi and Brown fails to teach or suggest the feature "supporting navigation function".

Examiner respectfully disagrees. Ravi reference dynamically adjust/matched the transmission rate to the available bandwidth to support navigation as (i.e. figures 2, 3 and 4, col. 6, lines 18 – 26).

Appellant repeated arguments in regarding claims 24 and 38 (Paper no. 18, dated, December 29, 2003, page 33, lines 8 – 14), that the Ravi and Brown reference fails to teach or suggest "providing, in the event of appropriate bandwidth availability, the requested VOD content to the subscriber using stored content encoded in a manner adapted to utilize the appropriate bandwidth, and providing in the event of minimum bandwidth availability, said requested VOD content to said subscriber using stored content encoded in a manner adapted to utilize minimum bandwidth."

Examiner respectfully disagrees. However the above argument is irrelevant. Since examiner relied on Ravi reference for the above subject matter as previously addressed not Brown (please see the above Office Action).

Appellant arguments in regarding claims 24 and 38 (Paper no. 18, dated, December 29, 2003, page 34, lines 17 – 20), that nowhere in the Ravi reference is any teaching or suggestion of "said minimum bandwidth level represents a bandwidth level sufficient to provide said requested information to said subscriber where said requested information is qualitatively degraded".

Examiner respectfully disagrees. Ravi reference as previously addressed, dynamically optimize and adjust the bandwidth in the event of minimum (abstract, lines 25 – 27) and maximum or intermediate (fig. 4) to provide the requested information to the user and also uses BW threshold for performance purpose (col. 7, lines 16 – 34).

Appellant repeated arguments in regarding dependent claims 34 and 35 (Paper no. 18, dated, December 29, 2003, page 35, lines 8 – 14), that the Ravi and Brown reference fails to teach or suggest "providing, in the event of appropriate bandwidth availability, the requested VOD content to the subscriber using stored content encoded in a manner adapted to utilize the appropriate bandwidth, and providing in the event of minimum bandwidth availability, said requested VOD content to said subscriber using stored content encoded in a manner adapted to utilize minimum bandwidth."

Examiner respectfully disagrees. However the above argument is irrelevant. Since examiner relied on Ravi reference for the above subject matter as previously addressed not Brown (please see the above Office Action).

Appellant arguments in regarding dependent claim 34 (Paper no. 18, dated, December 29, 2003, page 37, lines 10 – 14), that the combination of Ravi and Brown fails to teach or suggest the feature “wherein each program to be provided to requesting subscribers is stored at each of an appropriate encoded bit-rate and minimal encoded bit-rate.”

Examiner respectfully disagrees. Combination of Ravi ‘834 and Brown ‘530 teaches communication system and storage, that includes information distribution and transmission to client base on the requested information, and providing variable bandwidth (figs. 1, 2, and 4, and abstract, col. 7, lines 5 - 15 of Ravi), and also dynamically select from a plurality of predetermined/pre-stored bit-rates based on the subscriber request.

Appellant arguments in regarding dependents claims 25 – 28 and 39 – 42 (Paper no. 18, dated, December 29, 2003, page 38, lines 3 from the bottom of the page – page 39, lines 3), that the combined references fails to teach or suggest “providing said requested VOD content using stored content encoded in a manner adapted to utilize an appropriate bandwidth in the case of appropriate bandwidth availability, and for providing said requested VOD content using stored content encoded in a manner adapted to utilize a minimal bandwidth in the case of at least minimal bandwidth.” Have been already addressed above with respect to claims 17 and 30.

Appellant arguments in regarding dependents claims 29 and 43 (Paper no. 18, dated, December 29, 2003, page 41, lines 1 – 7), that the combination fails to teach or suggest “providing, in the event of appropriate bandwidth availability, the requested

VOD content to the subscriber using stored content encoded in a manner adapted to utilize the appropriate bandwidth, and providing in the event of minimum bandwidth availability, said requested VOD content to said subscriber using stored content encoded in a manner adapted to utilize minimum bandwidth."

Examiner respectfully disagrees. However the above argument has been previously addressed and is irrelevant. Since examiner as explained previously relied on Ravi reference for the above subject matter not Brown or Hang (please see the above Office Action).

Appellant arguments in regarding dependents claim 43 (Paper no. 18, dated, December 29, 2003, page 42, lines 1 – 7), that the combination of Ravi and Brown and Hang fails to teach or suggest the feature "subscriber request for VOD content being aggregated to control bandwidth utilization levels."

Examiner respectfully disagrees. Combination of Ravi and Brown and Hang teaches channel allocation to control bandwidth based upon expected component (fig. 1, col. 1, lines 5 – 10, and col. 2, lines 20 – 50 of Hang).

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

Behrooz Senfi
Examiner
Art Unit 2613

B. S. B. J.


March 8, 2004

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